

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Patrick Randell McIntosh,

Case No. 23-cv-2695 (NEB/TNL)

Petitioner,

v.

**REPORT &
RECOMMENDATION**

Eric Williams,

Respondent.

This case comes before the Court on Petitioner Patrick Randell McIntosh’s Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241 [ECF No. 1 (“Petition”)] and Applications to Proceed in District Court Without Prepaying Fees or Costs [ECF Nos. 4, 9 (“IFP Applications”)]. For the following reasons, the Court recommends dismissing this action and denying the IFP Applications as moot.

In an order dated October 25, 2023, this Court entered an order requiring McIntosh to submit an amended complaint. (*See* ECF No. 10 at 4.) The order gave McIntosh 28 days to submit the amended complaint—in other words, until November 22, 2023—failing which the Court would proceed with this case by assuming that McIntosh insists on proceeding with this matter as a habeas matter. (*See id.*) That deadline has now passed, and McIntosh has not submitted an amended complaint.

The Court therefore assumes that McIntosh wishes to proceed with this action as a habeas matter. As the Court explained in its earlier order: “McIntosh’s claims here

challenge . . . disciplinary proceedings [at the Federal Medical Center in Rochester, Minnesota]; they do not attack his civil commitment. He thus cannot pursue these claims in habeas.” (*Id.*; *see also id.* at 2–3 (providing more fulsome analysis).)

The Court therefore recommends dismissing this action for lack of jurisdiction. Given that recommendations, the Court also recommends denying McIntosh’s IFP Applications as moot.

RECOMMENDATION

Based on the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED THAT:**

1. This matter be **DISMISSED** for lack of jurisdiction.
2. Petitioner Patrick Randell McIntosh’s Applications to Proceed in District Court Without Prepaying Fees or Costs [ECF Nos. 4, 9] be **DENIED** as moot.

Date: December 11, 2023

s/ Tony N. Leung
Tony N. Leung
United States Magistrate Judge
District of Minnesota

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NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those

objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).